

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DERRICK CLAY JOHNSON, #1191773,

Petitioner,

v.

Civil Action No. **3:07-CV-480-L**

**NATHANIEL QUARTERMAN, Director
Texas Department of Criminal Justice,
Correctional Institutions Division,**

Respondent.

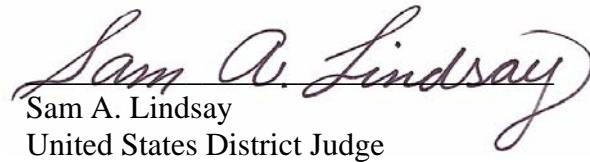
ORDER

This is a habeas case brought under 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b), and an order of the court in implementation thereof, this action was referred to the United States magistrate judge for proposed findings and recommendation. On June 4, 2007, the Findings, Conclusions, and Recommendation of the United States Magistrate Judge (“Report”) were filed, in which the magistrate judge recommends the petition be dismissed as time-barred. Petitioner Derrick Clay Johnson (“Johnson”) filed a Notice to Object (“Objections”) on June 13, 2007.

After making an independent review of the pleadings, file and record in this case, and the magistrate judge’s report, the court determines that the findings and conclusions of the magistrate judge are correct in recommending dismissal of the § 2254 petition as time-barred. Johnson’s Objections do not find fault with the magistrate judge’s Report; instead, Johnson requests an “extension of time” to file his petition. Johnson also states that he was prevented from purchasing any “legal/correspondence” supplies for two weeks while the prison unit in which he is incarcerated was on a lockdown between February 5 and March 5, 2007. As the magistrate judge’s Report

correctly noted, Johnson had 98 days following the denial of his state habeas petition in which to file his federal petition. During those 98 days, his prison unit was in lock-down status for one month, and, according to Johnson, there was only a two-week period within that month in which he was unable to obtain legal/correspondence supplies. He provides no explanation for why he could not have prepared and filed his federal petition prior to the lockdown, nor does he allege that the lockdown restricted the sending of mail to the federal courts during that period. Johnson's Objections are **overruled**, and his request for an extension of time is **denied**. The findings and conclusions of the magistrate judge are, therefore, **accepted** as those of the court. Accordingly, Petitioner's application for the writ of habeas corpus is **denied**. This case is hereby **dismissed with prejudice** as time-barred.

It is so ordered this 29th day of June, 2007.


Sam A. Lindsay
United States District Judge